

GENERAL PROJECT CRITERIA

1. **Purpose.** The L&WCF Act authorizes the Secretary of Interior to provide financial assistance to States for the acquisition and/or development of public outdoor recreation areas and facilities found to be in accord with the Statewide Comprehensive Outdoor Recreation Plan. Such assistance shall be on a matching basis to a maximum fifty (50) percent of the total project related allowable costs. However, grants to the Insular Areas may be made available on a 100% basis (see Section 600.1.8). The States are encouraged to share the benefits derived from the L&WCF program among all State and local agencies responsible for providing public outdoor recreation opportunities.
2. **Project Sponsors.** Only States may apply directly to NPS for L&WCF assistance, however, funds may be made available through the States to political subdivisions of the State and other appropriate public agencies. Proposed projects may be sponsored by a State agency or a public agency of a subordinate unit of government. All project proposals submitted to the Service must be recommended by the State Liaison Officer or by the State agency acting for the State Liaison Officer. No grant or contract may be awarded by any grantee of subgrantee or contractor of any grantee or subgrantee to any party which has been debarred or suspended under Executive Order 12549 (see 660.5.3E).
3. **Relation to State Plan.** Only project proposals in accordance with the Statewide Comprehensive Outdoor Recreation Plan (SCORP) may be considered. Project proposals may be submitted for approval only during the time in which the State sustains its eligibility for participation in the L&WCF program. Projects received during a period of ineligibility will be returned to the State as inactionable. This does not mean that the projects have been disapproved nor prevents them from being resubmitted by the State as soon as eligibility has been regained.
4. **Project Proposals.** The State has the initial prerogative and responsibility for determining the scope and effort involved in a project proposal. A project can be designed as follows: 1) Acquisition and/or development work at one site, 2) acquisition and/or development work, sponsored by a single State agency and/or local unit of government, at several sites, or 3) a particular type of facility, such as swimming pools or miniparks, sponsored by State agencies and/or local units of government and located at several sites.

The Service reserves the right to require the segmenting of project proposals into smaller projects or the combining of small related projects into a larger one when, in the judgement of the Service, such proposals

do not lend themselves to effective and economical management and costing.

A project proposal, except in the most unusual circumstances, should embrace only those efforts that can be accomplished within a five-year period.

5. **Types of Projects.**

A. **Acquisition.** These include the acquisition of land and waters or partial rights to them.

B. **Development.** These include the development of certain outdoor recreation activity and support facilities needed by the public for recreation use of an area.

C. **Combined.** When it is advantageous to do so, a State may submit projects which combine acquisition and development.

6. **Multiple-Purpose Projects.** Multi-purpose projects which involve uses other than outdoor recreation may be eligible for assistance under the Act. The State must include a careful and complete justification and explanation with each proposal. Two general types of multiple-purpose projects are eligible for assistance:

A. Projects in which a specifically designated portion of the multiple-purpose area or facility will be used primarily for outdoor recreation and/or outdoor recreation support, such as picnicking facilities adjacent to a new public reservoir. Fund assistance is limited to the designated outdoor recreation area and/or facility and support facility.

B. Projects which will provide identifiable outdoor recreation benefits as a whole, as opposed to specific segments of it. For example, a water impoundment constructed primarily for flood control might also have important recreation benefits. In such a case, at the Service's discretion, assistance might be made available only for the portion of the cost, on a pro rata basis, of the facility which is clearly attributable to outdoor recreation above and beyond the facility's cost for its non-recreation function.

The proposal must fully disclose the nature and extent of other uses and the relationship of the proposed outdoor recreation project to the total area and development. Additionally, if the project is located in a floodplain, the project proposal must evaluate the flood hazard to the Fund-assisted facility. (see Chapters 650.6 and 650.7).

7. **Assistance from Other Agencies.** Project proposals submitted to the Service for L&WCF assistance may also be submitted to other public agencies for aid. The State or local matching share of an approved project may consist of other Federal financial assistance only where the statutory provisions of the subsequent Federal grants program explicitly allows recipients to use such assistance to match other Federal funds (see Section 670.1.5). The application to the Service should describe any such submissions, and the Service should immediately be notified if these result in assistance or the promise of assistance by another organization.
8. **Control and Tenure.** For lands included in a project proposal, the project sponsor must have title or adequate control and tenure of the project area in order to provide reasonable assurances that a conversion under Section 6(f)(3) of the L&WCF Act will not occur without Service approval. Copies of the property titles, leases, easements, or other appropriate documents must be on file at the State level and available for Federal inspection.

- A. Property that is proposed for acquisition and/or development and which is subject to reversionary interests upon discontinuation of the recreation use may be eligible to receive Fund assistance. The Service's determination in this regard will rest on the compatibility of uses proposed by the project sponsor with that stipulated in the reversionary clause and receipt of satisfactory assurances from the State that the property so assisted will be replaced in accord with specific Section 6(f)(3) provisions applicable to such future conversion should the reversionary interest be exercised.

Such assurances are contained in the General Provisions of the Project Agreement and may also apply to termination provisions included in leases and special use permits, provided such revocation is not at the sole discretion of the lessor except in the case of Forest Service Term Special Use Permits. (see Section 640.3.4)

- B. Properties subject to outstanding interests, such as mineral rights that, if exercised, may not be compatible with the continued viable use of the area for outdoor recreation, may also be agreed to under certain specific conditions. The Service will agree to such a future conversion based upon a State's present agreement that these lands will be replaced in accord with Section 6(f)(3) provisions. This specific assurance provision is contained in the General Provisions of the Project Agreement (i.e., Attachment 660.3B).

It should be noted the above paragraphs A and B are only concerned with those reversionary rights or outstanding interests that, should they occur or be exercised, would result in the project area not being viable for

continued public outdoor recreation use as determined by NPS at the time of project submission and where the State certifies and the Service agrees that the possibility of the reversionary interest or outstanding rights being exercised is remote. These decisions will be made on a case by case basis. When significant outstanding rights are involved, the project application will also contain an opinion of Counsel from the State and if appropriate, an opinion from local Counsel, that the State or recipient has the authority to enter into a grant contract which may require the provision of replacement land. Other rights and interests which, if exercised, will not adversely affect the recreation utility or viability of the area can be excepted from Section 6(f)(3) purview upon recommendation of the State and concurrence by the Service (see Sections 660.2.6 and 660.5.2C(2)).

9. **Leasing of Lands Acquired and/or Developed with L&WCF Assistance.**

A project sponsor may provide for the operation of a L&WCF assisted facility by leasing the facility to a private organization or individual. As the principal grantee, the State is ultimately accountable for assuring compliance with the applicable Federal requirements and therefore the delegation or transfer of certain responsibilities to subgrantees or leases does not relieve the State of its compliance burden. Accordingly, the State must irrevocably agree to provide suitable replacement property should the public use of the leased facility be restricted or the outdoor recreation resource be compromised. (see also 675.9.8 Post-Compliance Responsibilities)

All lease documents for the operation of L&WCF assisted projects by private organizations or individuals must address the following:

- A. In order to protect the public interest, the project sponsor must have a clear ability to periodically review the performance of the lessee and terminate the lease if its terms and the provisions of the grant agreement, including standards of maintenance, public use, and accessibility are not met.
- B. The document should clearly indicate that the leased area is to be operated by the lessee for public outdoor recreation purposes in compliance with provisions of the Land and Water Conservation Fund Act and implementing guidelines.
- C. The document should require that the area be identified as being publicly owned and operated as a public outdoor recreation facility in all signs, literature and advertising and that the lessee be identified as such as not to mislead the public into believing that the area is private. Signs should also be posted identifying the facility as being open to the public in accord with Chapter 675.4.

- D. The document should require that all fees charged by the lessee to the public must be competitive with similar private facilities.
 - E. The document should make clear that compliance with all Civil Rights and accessibility legislation (e.g., Title VI of Civil Rights Act, Section 504 of Rehabilitation Act, Americans with Disabilities Act) is required, and that compliance will be indicated by signs posted in visible public areas, statements in public information brochures, etc.
10. **Use of Existing Public Land for Matching Purposes.** Existing governmentally owned lands cannot be used as a part of the non-Federal matching share of a project unless such land is to be acquired by the sponsoring agency from another agency and there is a statutory requirement that the selling agency be reimbursed for the value of the property. Further, property cannot be "donated" between a State and its political subdivisions to serve as a match for grant assistance. (Also see 670.3.4K)

CRITERIA FOR ACQUISITION

1. **Types of Acquisition.** Acquisition of lands and waters for public outdoor recreation, including new areas or additions to existing parks, forests, wildlife areas, beaches, and other similar areas dedicated to outdoor recreation may be eligible for assistance. Acquisition can be by fee simple title or by whatever lesser rights will insure the desired public use. The types of acquisitions that are eligible for assistance include, but are not limited to:
 - A. Areas with frontage on oceans, rivers, streams, lakes, estuaries, and reservoirs that will provide water-based public recreation opportunities, or the acquisition of water bodies themselves.
 - B. Land for creating water impoundments to provide water-based public outdoor recreation opportunities.
 - C. Areas that provide special recreation opportunities, such as floodplains, wetlands, and areas adjacent to scenic highways.
 - D. Natural areas and preserves and outstanding scenic areas where the objective is to preserve the scenic or natural values, including areas of physical or biological importance and wildlife areas. These areas must be open to the general public for outdoor recreation use to the extent that the natural attributes of the areas will not be seriously impaired or lost.
 - E. Land within urban areas for day-use picnic areas, neighborhood playgrounds, and tot lots; areas adjacent to school playgrounds and competitive nonprofessional sports facilities, as well as more generalized parklands.
2. **Activities Covered.** Areas acquired may serve a wide variety of outdoor recreation activities including, but not limited to: driving and walking for pleasure, sightseeing, swimming and other water sports, fishing, picnicking, nature study, boating, hunting and shooting, camping, horseback riding, bicycling, snowmobiling, skiing, and other outdoor sports and activities.
3. **Acquisition of Structures.** Acquisition projects may include structures and impoundments which: (a) are to be used primarily for outdoor recreation or outdoor recreation support activities or (b) are a part of the outdoor recreation area to be acquired, and are to be removed or demolished (or drained in the case of impoundments). L&WCF assistance may be used to acquire modest structures to be used as park rangers' residences provided the cost of the structure is incidental to the

total acquisition cost. Project proposals must list all improvements and their proposed use or disposition.

4. **Acquisition of Lesser Interests.** Proposed acquisitions of interests in lands and waters of less than fee simple title are no longer encouraged unless such lesser rights (e.g., permanent recreation use easements or similar devices) will insure the desired public access and use. No approval will be given for the acquisition of leasehold interests. This policy does not render existing lease agreements illegal, and does not have retroaction application.
5. **Acquisition Involving Compatible Uses.** Non-recreation uses, such as timber management, grazing, and other natural resource uses not including agriculture may be carried out within the area if they are clearly described in the project proposals, are compatible with and secondary to outdoor recreation use, and are approved by the Service. (see Section 675.1.8 for disposition of income.) Also, facilities that are not eligible for L&WCF assistance may be constructed with other than L&WCF monies on land purchased with L&WCF assistance if such facilities do not constitute a conversion under Section 6(f)(3) of the Act. (see Section 675.9.3).
6. **Means of Acquisition.** Acquisition of lands and waters, or interests therein may be accomplished through purchase, eminent domain, transfer, or by gift. (If the property or interest is being acquired from another public agency see Section 670.3.4K).
7. **Reservations and Rights Not Acquired.** Reservations and rights held by others are permissible only if it is determined that the outdoor recreation purposes and environment would not be significantly affected. The project sponsor shall list all outstanding rights or interests held by others on Part II, Section B of OMB Form 80-RO184 (see Attachment 660.3A) and on the project boundary map. (see Section 660.2.6) Further, the environmental information submitted to the Service on the project must explain how these outstanding rights are to be dealt with to assure that the outdoor recreation interests and the environment will not be affected significantly. (see Chapter 650.2 and Section 660.2.6).
8. **Acquisition for Delayed Development**
 - A. **General.** L&WCF assistance may be available to acquired property for which the development of outdoor recreation facilities is planned at a future date. In the interim, between acquisition and development, the property should be open for those public recreation purposes which the land is capable of supporting or which can be achieved with a minimum public investment. Non-

recreation uses such as agriculture occurring on the property at the time of acquisition may continue for up to 3 years, contingent upon approval by the Service. In this case the project sponsor shall not receive payment on the project until the non-recreation use is terminated. (see Section 640.2.8C)

B. Procedures. If development will be delayed for more than two years from the date of acquisition, the project sponsor shall include the following information in the project application.

- (1) Why immediate acquisition of the property is necessary.
- (2) What facilities will be developed and when such development will occur.
- (3) What, if any, non-recreation uses will be continued on the property and when such non-recreation uses will be terminated.
- (4) The type of public recreation access that will be provided during the interim period.

C. Non-Recreation Use. In applications where the continuation of an existing non-recreation use is anticipated, the project sponsor shall, in addition to the above information, include the following condition in the project agreement to assure the L&WCF payment is not requested until the non-recreation use is terminated:

"The State will receive no payment from the Land and Water Conservation Fund for those parcels of land supporting non-recreation uses until the project sponsor has terminated such uses."

Furthermore, the project application should also include:

- (1) Assurance that any income received by the project sponsor for the non-recreation use will be used in accord with the provisions of Section 675.1.8;
- (2) Assurance that the non-recreation use will be terminated within 3 years from the date of acquisition; and
- (3) A written request to the Regional Director for concurrence in the continuation of the non-recreation use during the interim period.

D. Extension of the 3 Year Limit. In applications where public access for recreation purposes will be provided, the continuation of the non-recreation use beyond the 3 year limit may be extended by the Regional Director. The State should submit a written request for

such an extension to the appropriate Regional Director before the end of the 3 year period. This request should include 1) a full description of the property's open space value and public recreation use, and 2) an update of the project sponsor's plans for developing outdoor recreation facilities on the property. In granting such an exception, the Service recognizes that certain non-recreation uses are compatible with limited public recreation use of the property and the enjoyment of open space values. The Regional Director shall not grant an extension of the 3 year limit if public recreation access and open space values are not present. If an extension of the 3 year limit is granted, the project sponsor cannot be reimbursed until all non-recreation uses have ceased (see Section 640.2.8C).

- E. EXCEPTIONS. This policy does not preclude the continuation or introduction of non-recreation uses such as timber management, grazing and other natural resource uses not including agriculture which are clearly described in the project application, are compatible with and secondary to the outdoor recreation uses intended for the property, and are approved by the Service. (see Section 640.2.5)
- 9. Uniform Relocation and Acquisition. All acquisitions with Fund assistance must be made in accordance with the applicable provisions of Public Law 91-646, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (see Chapter 650.3).
 - 10. Acquisition Which Will Not Be Assisted.
 - A. Acquisition of historic sites and structures will not receive L&WCF assistance. Exceptions may be made only when it is demonstrated clearly that the acquisition is primarily for outdoor recreation purposes and that the historic aspects are a corollary to the primary recreation purposes. This exclusion need not prevent the consideration by States and the Service of projects calling for acquisition of real property interests contiguous to or near historic sites and structures which meet priority outdoor recreation needs. Compliance with the National Historic Preservation Act of 1966 is required for all acquisitions (see Chapter 650.4).
 - B. Acquisition of museums and sites to be used for museums or primarily for archeological excavations will not receive L&WCF assistance.
 - C. Acquisition of land to help meet a public school's minimum site size requirement, as established by State or local regulations will not receive L&WCF assistance.

- D. Acquisition of areas and facilities designed to be used primarily for semi-professional and professional arts and athletics will not receive L&WCF assistance.
- E. Acquisition of areas and facilities to be used solely for game refuges or fish production purposes will not receive L&WCF assistance. However, such areas and facilities may be eligible if they will be open to the public for general compatible recreation, or if they directly serve priority public outdoor recreation needs.
- F. Acquisition of areas to be used mainly for the construction of indoor facilities will not receive L&WCF assistance. Also prohibited are areas where existing indoor recreation facilities, if left in place, will not leave sufficient area at the site for the development of outdoor recreation facilities to justify the cost of the acquisition.
- G. Acquisition of railroad "hardware," trestles, stations, yards, and the like will not receive L&WCF assistance, if such are to be used for the commercial operation of railroad trains.
- H. Acquisition of sites containing luxury lodges, motels, cabins, and similar elaborate facilities which are to be operated by the project sponsor or a concessionaire to serve recreationists with food and sleeping quarters will not receive L&WCF assistance.
- I. Acquisition of agricultural land primarily for preservation in agricultural purposes will not receive L&WCF assistance. (see Section 640.3.8E)
- J. Acquisition of Federal surplus property will not receive L&WCF assistance unless legislatively authorized in a specific situation.

CRITERIA FOR DEVELOPMENT

1. **General.** Financial assistance may be available through the L&WCF program to provide most facilities necessary for the use and enjoyment of outdoor recreation areas. The L&WCF Act specifies that development projects may consist of basic outdoor recreation facilities to serve the general public provided that the funding of such a project is in the public interest and in accord with the Statewide Comprehensive Outdoor Recreation Plan (SCORP). In addition, development projects are subject to all other conditions, policies, and regulations included in the L&WCF Act and this Manual.
2. **Project Scope.** A development project or consolidated project element may consist of one improvement or a group of related improvements designed to provide basic facilities for outdoor recreation, including facilities for access, safety, health, and protection of the area, as well as those required for the use of the area. Furthermore, a project may consist of the complete or partial development of one area, such as a State park or a city playground, or it may consist of a series of developments on a number of geographically separated areas such as picnic facilities in a number of parks, or the construction of fishing piers on a number of lakes in the State (see Section 640.1.4). In all cases, the project must be a logical unit of work to be accomplished in a specific time frame. Ineligible facilities to be funded through sources other than the L&WCF program may be included in the development concept plan of a project. The development of such ineligible facilities on lands acquired and/or developed with L&WCF assistance will be allowed only if they do not constitute a conversion under a Section 6(f)(3) of the Act. (see Section 675.9.3).

Funding of development project proposals may cover construction, renovation, site planning, demolition, site preparation, architectural services, and similar activities essential for the proper conduct of the project.
3. **Design Criteria.** Plans for the development of land and/or facilities should be based on the needs of the public, the expected use, and the type and character of the project area. Facilities should be attractive for public use and generally be consistent with the environment. Plans and specifications for the improvements/facilities should be in accord with established engineering and architectural practices. Emphasis should be given to the health and safety of users, accessibility to the general public, and the protection of the recreation and natural values of the area. All facilities developed with assistance from the Fund must be

designed in conformance with: 1) the Architectural Barriers Act of 1968 (ABA) (P.L. 90-480) and the "Uniform Federal Accessibility Standards" as published in the Federal Register of August 7, 1984; or 2) the Department of the Interior regulations of July 7, 1982 on Section 504 of the Rehabilitation Act of 1973 (43 CFR Part 17) and the "Minimum Guidelines and Requirements for Accessible Design" as issued by the Architectural and Transportation Barriers Compliance Board (ATBCB), 36 CFR Part 1190. The "Uniform Federal Accessibility Standards" meet or exceed the requirements in the ATBCB's Minimum Guidelines.

4. **Ownership or Control of Project Lands.** Facilities may be developed on land and water owned in fee simple by the participating agency or where ownership of less-than-fee interests such as easements provides permanent control of the property commensurate with the proposed development.

No approval will be given for the development of facilities on leased land except for property either:

A. Leased from the Federal Government for 25 years or more (though some time on the lease may have elapsed); or,

B. Leased from one public agency to another for 25 years or more, provided that safeguards are included to adequately ensure the perpetual use requirement contained in the L&WCF Act. Such safeguards may include joint sponsorship of the proposed project or other agreement whereby the lessor would assume compliance responsibility for the grant-assisted area in the event of default by the lessee or expiration of the lease.

In case of a Forest Service Term Special Use Permit, where the Forest Service reserves the right to revoke the use permit at its discretion, the grant agreement between NPS and the State will expressly recognize the possible termination of the permit by the Forest Service and the State will nonetheless obligate itself to provide substitute lands in that event (Solicitor's opinion October 28, 1980).

5. **Development Project Selection.** In selecting development projects for submission to the Service, the States should carefully review and evaluate the project applications to filter out ineligible proposals. A special effort should be made to eliminate questionable, elaborate or borderline projects which raise serious questions concerning the project's cost, use, priority, competition with the private sector, or inclusion of ineligible facility types (see Chapter 660.4). In addition, boat and fishing access facilities and related support facilities which are eligible for funding under both L&WCF and the Dingell-Johnson Act (also known as the Federal Aid in Sport Fish Restoration Act and

"Wallop-Breaux"), as amended, must meet the following provision: L&WCF funding will not be provided for facilities also eligible under Dingell-Johnson (D-J) unless the State Liaison Officer has undertaken an effort to coordinate all requests for such facilities with the State official designated to administer D-J projects. Any application for L&WCF assistance on impacted facilities must include a statement from the State Liaison Officer certifying that such coordination has taken place. The result of such effort would be that the application would be directed or redirected toward which ever program is deemed more appropriate for assisting the specific project considering cost, availability of funds, other project components and additional factors deemed pertinent. D-J funds may not be used in meeting the State matching share requirement of L&WCF.

6. Guidelines for Eligible Recreation Facilities. Development projects may include but are not limited to the following facility types:
- A. Sports and Playfields. L&WCF assistance may be available for fields, courts and other outdoor spaces used in competitive and individual sports. This includes fields for baseball, softball, soccer and football, tennis courts, playgrounds and tot lots, golf courses, rifle/pistol ranges, trap/skeet fields, archery ranges, rodeo arenas, running tracks, and other similar facilities. (see 640.3.6M and 640.3.8A)
 - B. Picnic Facilities. L&WCF assistance may be available for tables, fireplaces, shelters, and other facilities related to family or group picnic sites.
 - C. Trails. L&WCF assistance may be available for the development and marking of overlooks, turnouts and trails for nature walks, hiking, bicycling, horseback riding, exercising, motorized vehicles and other trail activities.
 - D. Swimming Facilities. L&WCF assistance may be available for swimming beaches, outdoor pools, wavemaking pools, wading pools, spray pools, lifeguard towers, bathhouses and other similar facilities.
 - E. Boating Facilities. L&WCF assistance may be available for most facilities related to motorboating, sailing, canoeing, kayaking, sculling and other boating activities. These facilities include, but are not limited to, docks, berths, floating berths secured by buoys or similar services, launching ramps, breakwaters, mechanical launching devices, boat lifts, boat storage, sewage pumpout facilities, fuel depots, water and sewer hookups, restrooms, showers, electricity and parking areas. Assistance will not be provided for operational

equipment such as buoys, ropes, life jackets, or boats. Marinas are also eligible for assistance and are subject to the following provisions regardless of when L&WCF assistance was provided:

- (1) An equitable method of allocating berth space shall be used in all marinas. Allocation methods shall include: (a) annual or multi-year lotteries, or (b) posted waiting lists where berth space is filled in the order of receipt of applications, or (c) another method selected by the applicant that responds to local conditions and equitably allocates space among all parties on an annual or multi-year basis. In each instance, adequate public notice shall be provided announcing the availability of berth space and describing application procedures. The project sponsor shall determine the most equitable method under which leaseholders may compete for future berth space vacancies. For new marinas the project narrative shall describe the allocation system to be used.
- (2) Commercial charter fishing or sightseeing boats are permissible marina lease holders due to their potential for expanding public waterfront access. However, it is not intended that these users occupy a significant number of marina berths and accordingly, project sponsors should establish reasonable limits on the number of berth spaces provided for such users.

New marinas receiving L&WCF assistance shall also be subject to the following provisions:

- (3) Berth lease terms shall not be transferable to any other party.
- (4) Berth space for transient boaters shall be provided.
- (5) Marinas located in urban areas shall include specific design provisions for non-boater public access. To expand water-based recreation opportunities such access may be provided in the form of walkways, observation points, fishing piers and/or related facilities. Limited access to the actual marina berths may be retained.

Refer to 640.3.5 for requirement of seeking Dingell-Johnson coordination prior to applying for L&WCF assistance for certain boating facilities.

- F. Fishing/Hunting Facilities. L&WCF assistance may be available for trails, fishing piers and access points, initial clearing and planting of food and cover, stream improvements, wildlife management areas, fish hatcheries and other facilities necessary for public fishing or

hunting. In developing and evaluating fish hatchery proposals, States shall give priority to hatcheries which provide urban fishing opportunities. (see 640.2.1OE). Refer to 640.3.5 for requirement of seeking Dingell-Johnson coordination prior to applying for L&WCF assistance for certain fishing facilities.

- G. Winter Sports Facilities. L&WCF assistance may be available for facilities such as ski trails, jumps, lifts, slopes and snowmaking equipment used in downhill skiing, cross country skiing, tobogganing, sledding, snowmobiling, and other winter sports. Outdoor ice skating and ice hockey rinks are also eligible.
- H. Camping Facilities. L&WCF assistance may be available for tables, fireplaces, restrooms, information stations, snack bars, utility outlets and other facilities needed for camping by tent, trailer or camper. Cabins or group camps of simple austere design and accessible to the general public in an equitable manner are eligible. Group camps designated for specific groups or for which specific groups will be given priority access are not eligible. Lodges, motels and luxury cabins are not eligible.
- I. Exhibit Facilities. L&WCF assistance may be available for outdoor exhibit or interpretive facilities that provide opportunities for the observation or interpretation of natural resources located on the recreation site or in its immediate surrounding areas. This includes small demonstration farms, arboretums, outdoor aquariums, outdoor nature exhibits, nature interpretive centers and other similar facilities. However, exhibit areas will not be assisted if they function primarily for academic, historic, economic, entertainment or other non-recreational purposes. This restriction includes convention facilities, livestock and produce exhibits, commemorative exhibits, fairgrounds, archeological research sites, and other non-recreational facilities. The development of nature and geological interpretive facilities which go beyond interpreting the project site and its immediate surrounding area are not eligible.
- J. Spectator Facilities. L&WCF assistance may be available for amphitheaters, bandstands and modest seating areas related to playfields and other eligible facilities, provided the facility is not designed primarily for professional or semiprofessional arts or athletics, nor intercollegiate or interscholastic sports. Some bleachers or other modest seating areas are encouraged to be incorporated where needed into eligible recreation facilities to serve the handicapped, elderly and other nonparticipants in the facility's major recreation activity. Seating shall not be expanded solely to

provide capacity for a limited number of special events.

- K. Community Gardens. L&WCF assistance may be available for land preparation, perimeter fencing, storage bins and sheds, irrigation systems, benches, walkways, parking areas and restrooms related to a community garden. In such a project, community gardening must be clearly identified in the SCORP as a needed outdoor recreation activity and must be accessible to the general public in an equitable manner. Furthermore, L&WCF assistance is not available for fertilizer, seeds, tools, water hoses, nor gardens planned as commercial enterprises.
- L. Renovated Facilities. L&WCF assistance may be available for extensive renovation or redevelopment to bring a facility up to standards of quality and attractiveness suitable for public use, if the facility or area has deteriorated to the point where its usefulness is impaired, or outmoded, or where it needs to be upgraded to meet public health and safety laws on requirements. However, such renovation is not eligible if the facility's deterioration is due to inadequate maintenance during the reasonable life of the facility.
- M. Professional Facilities. Areas and facilities designed primarily for semi-professional or professional arts or athletics, such as professional type outdoor theaters, professional rodeo arenas and other similar facilities are not eligible for L&WCF assistance.
- N. Handicapped Facilities. L&WCF assistance may be available for the adaptation of new or existing outdoor recreation facilities and support facilities for use by the handicapped (see Section 640.3.3). However, outdoor recreation facilities to be used exclusively by the handicapped are not eligible unless such facilities are available to the general public or are part of an outdoor recreation area which serves the general public.
- O. Mobile Recreation Units. Mobile recreation units including playmobiles, skatemobiles, swimmobiles, show wagons, puppet wagons and porta-bleachers are not eligible for L&WCF assistance.
- P. Zoo Facilities. Outdoor display facilities at zoological parks are eligible to receive Land and Water Conservation Fund assistance provided they portray a natural environmental setting that serves the animal's physical, social, psychological and environmental needs, and that is compatible with the activities of the recreationist. Traditional outdoor caging facilities and animal pens are not eligible although Fund assistance can contribute to the renovation of such facilities to achieve a more natural environmental setting as described above. Basic winter/adverse weather housing quarters that are separate and distinct from enclosed viewing and display

areas and which are used in direct support of outdoor displays may also receive assistance. Support facilities to serve the needs of the recreationist, such as walkways, landscaping, comfort facilities, parking, etc. are also eligible. Other enclosed or sheltered facilities such as indoor displays, and permanent housing are not eligible for Fund assistance.

7. Guidelines for Eligible Support Facilities

- A. Public Use Facilities. L&WCF assistance may be available for support facilities needed by the public for outdoor recreation use of an area, such as roads, parking areas, utilities, sanitation systems, restroom buildings, simple cabins or trail hostels, warming huts, shelters, visitor information centers, kiosks, interpretive centers, bathhouses, permanent spectator seating, walkways, pavilions, snack bar stands, and equipment rental spaces. When appropriate, support facilities may be sheltered from the elements by providing a simple roof or cover. Informational materials and leaflets are not eligible.
- B. Operation and Maintenance Facilities. Facilities that support the operation and maintenance of the recreation resource on which they are located are eligible, such as maintenance buildings, storage areas, administrative offices, dams, erosion control works, fences, sprinkler systems and directional signs. Regional and areawide maintenance facilities are eligible provided the project sponsor agrees to include those park and recreation areas served by the maintenance facility in the scope of the project agreement and under the conversion provisions of Section 6(f)(3) of the Act (see Chapter 675.9.3). However, an employee's residence and its furnishings are not eligible.
- C. Beautification. The beautification of an outdoor recreation area is eligible provided that it is not part of a regular maintenance program and if the site's condition is not due to inadequate maintenance. This includes landscaping to provide a more attractive environment; the clearing or restoration of areas which have been damaged by natural disasters; the screening, removal, relocation or burial of overhead power lines; the dredging and restoration of publicly owned recreation lakes or boat basins and measures necessary to mitigate negative environmental impacts.
- D. Indoor Facilities. L&WCF assistance will not be provided for support facilities, or portions of support facilities which contribute primarily to public indoor activities, such as meeting rooms, auditoriums, libraries, study areas, restaurants, lodges, motels,

luxury cabins, food preparation equipment, kitchens, and equipment sales areas (see Section 640.3.2).

- E. Pro Rata Basis. Support facilities that exclusively serve ineligible facilities are not eligible. However, if support facilities will serve both eligible and ineligible facilities, as may be the case with roads and sewers, assistance may be provided on a pro rata basis for that portion of the support facility that will serve the eligible facilities, provided that the eligible facilities are subject to the Act's 6(f)(3) conversion provisions.
- F. Roads. Roads constructed outside the boundaries of the recreation area or park are not eligible, unless:
- (1) They are, in fact, access roads to a designated park and recreation area and not part of a State, county or local road system extending beyond or through the boundaries of the area.
 - (2) The access corridor must be owned or adequately controlled by the agency sponsoring or administering the park or recreation area.
 - (3) The principal objective is to serve the park and visitors. Any use or service to private parties must clearly be incidental to the primary use of the access road for recreation purposes in which case assistance may be granted on a pro rata basis. Roads designed to serve undesignated recreation areas or Federal areas are not eligible.
- G. Equipment. Equipment required to make a recreation facility initially operational, and certain supplies and materials specifically required under State Health Department regulations may be eligible for assistance (see Section 670.3.4D (2)).
- H. Relation to Project Proposal. Development projects in new or previously undeveloped recreation areas may not consist solely of support facilities, unless they are required for proper and safe use of an area which does not require additional outdoor recreation facilities (such as construction of restrooms at a public nature study area), or unless necessary outdoor recreation facilities are being developed concurrently with the L&WCF assisted support facilities, or unless necessary outdoor recreation facilities will be developed within a reasonable period of time. In the latter two cases, the project agreement must include a provision that the non-L&WCF assisted outdoor recreation facilities are to be completed within a certain time frame agreeable to the Service and that if they are not,

the L&WCF monies will be refunded.

- I. Staged Projects. If the first stage of a multi-staged L&WCF project consists wholly of support facilities, and approval is requested only for the first stage, the project agreement must contain the provision that the first stage L&WCF monies will be refunded if the later stages, which include the recreation facilities, are not completed within two years.
 - J. Energy Conservation Elements. The energy conservation elements of an eligible outdoor recreation facility and its support facilities are eligible for L&WCF assistance. This includes but is not limited to solar energy systems, earth berms, window shading devices, energy lock doors, sodium vapor lights, insulation and other energy efficient design methods and materials. In addition, power systems which minimize or eliminate a facility's use of petroleum and natural gas are eligible including, but not limited to, windmills, on-site water power systems, bioconversion systems, and facilities required for the conversion of existing power systems to coal, wood, or other energy efficient fuels.
8. Facility Location. Development projects may be located on lands and waters owned by or leased to the project sponsor (see Section 640.3.4). In certain situations, however, the following conditions also apply:
- A. Public School Grounds. Outdoor recreation areas and facilities for coordinated use by the general public and by public schools, including colleges and universities, are eligible for L&WCF assistance, provided such facilities are not part of the normal and usual program and responsibility of the educational and athletic program requirements of a school may not receive L&WCF assistance. This policy does not preclude exclusive school use of certain facilities such as athletic fields, tennis courts, swimming pools, etc. at certain times for instruction or competition provided there is adequate public use at other times. Stadiums and permanent bleachers are not eligible for L&WCF assistance. The grant application must include a schedule of the time the facility will be available to the public. Additionally, adequate signs must be installed at the site, prior to final payment on the project, indicating when the outdoor recreation facilities are available to the general public.
 - B. Tourist Areas. Outdoor recreation and support facilities may be located in primary or potential tourist market areas, provided their primary purpose is for public outdoor recreation as opposed to entertainment or economic development, and provided they do not create unfair competition with the private sector (see Section

660.5.3F).

- C. Historic Sites. Outdoor recreation and support facilities may be located on historic sites or in conjunction with historic structures. This includes picnic areas, walkways and trails on a historic property as well as visitor centers oriented to the outdoor facilities and environment. However, the restoration or preservation of historic structures is not eligible. In all cases, the project must be in accord with the National Historic Preservation Act of 1966 (see Chapter 650.4).
 - D. Utility Sites. Assuming adequate control and tenure (see 640.3.4), outdoor recreation and support facilities may be located on utility company lands such as rights-of-way, reservoir lands, etc. unless the Exhibit R of the utility's license application filed with the Federal Energy Regulatory Commission indicates that the facilities are to be provided at the sole expense of the licensee.
 - E. Agricultural Lands. Outdoor recreation and support facilities, such as demonstration farms, wildlife management and hunting areas, may be planned in conjunction with agricultural activities, provided that the type and extent of the agricultural activity is limited to that necessary to support the outdoor recreation activity.
9. Guidelines for Eligible Sheltered Facilities. For L&WCF assisted swimming pools and ice skating rinks located in areas which meet the cold climatic criteria described below, shelters of permanent construction may partially or completely enclose these facilities to protect them against cold weather conditions and thereby significantly increase the recreation opportunities provided.
- A. Funding Limitation. A qualified State may use up to 10 percent of its annual apportionment for eligible sheltered facilities. The amount to be charged against this allowance will be computed based upon the Fund assistance provided for the entire enclosed facility, rather than the Fund assistance provided only for the shelter.

If a State does not use the entire 10 percent of its fully obligated fiscal year apportionment for sheltered facilities, the remaining balance may be credited to subsequent apportionment allowances. For example, where only 5 percent of a fully obligated fiscal year apportionment has been used, the subsequent fiscal year apportionment allowance would be 10 percent plus the 5 percent balance carried over from the previous fiscal year. A credit may be carried for two subsequent fiscal years.

If a Fund-assisted swimming pool or ice skating rink without a

shelter is developed under a project approved after September 28, 1976, and a separate project is later submitted to shelter the pool or rink, the combined amount of Fund assistance provided for both the facility and its shelter will be credited against available allowances. If the Fund-assisted pool or rink was developed under a project approved prior to September 28, 1976, and a separate project is later submitted to shelter the facility, only the Fund assistance provided for the shelter will be credited against available allowances.

Also, Fund assistance may be used to develop a shelter for a swimming pool or ice skating rink that was not constructed with Fund assistance. In this case, only the cost of the shelter will be credited against available allowances.

- B. Use of Non-Federal Funds for the Shelter. State or local project sponsors may use their own funds to shelter existing or proposed Fund-assisted swimming pools or ice skating rinks which are consistent with the criteria described below. In such cases, Fund assistance provided to develop the pool or rink will not be credited against available allowances. Proposals to shelter eligible facilities with State or local funds will be approved by the State Liaison Officer and the appropriate NPS.

Where the State or locally funded shelter is constructed concurrently with the Fund-assisted facility, the total project cost included in the grant agreement will be that cost attributable to the pool or rink facility only. L&WCF assistance will only be used to fund outdoor recreation facilities. Fund monies will not be used to cost share in indoor facilities such as recreation centers. Engineering cost estimates and contract specifications must separate the shelter costs from other project development costs. When sheltering is to occur concurrently with the construction of the funded facility, the NPS Regional Director shall review the plans and cost accounts to ensure that L&WCF monies are not used in the sheltering.

Project sponsors may, without the use of L&WCF monies, construct indoor facilities on a Fund assisted site when such facilities are compatible with the outdoor recreation use of the site. NPS approval must be obtained prior to construction in accordance with the procedures contained in Section 675.9.3.

- C. Shelter Requirements. Any facility assisted from or eligible for assistance from the L&WCF and within a Section 6(f) boundary may be sheltered or enclosed at the expense of the project sponsor. New

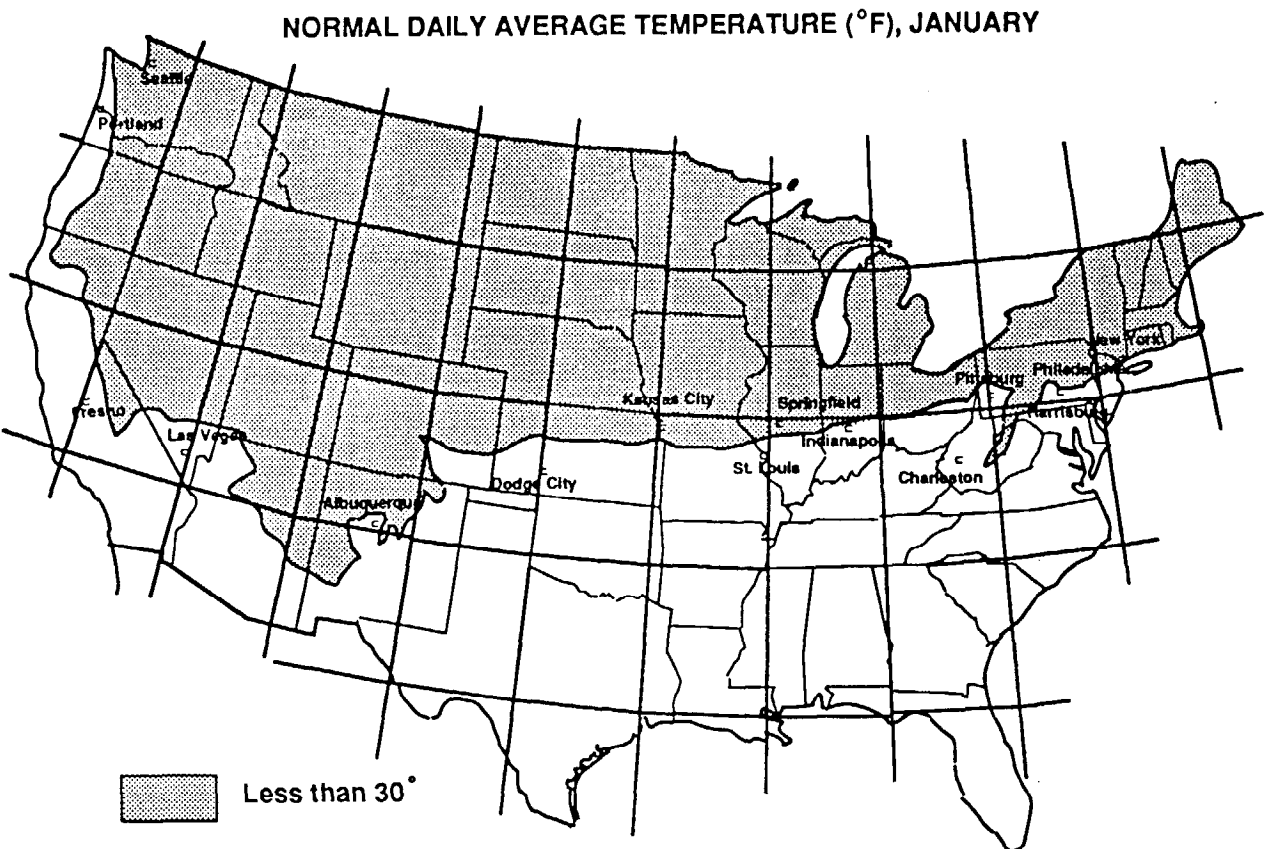
sheltered facilities may also be constructed at the project sponsor's expense, with NPS approval regardless of prevailing climatic conditions. To be considered by NPS, a proposed shelter or enclosure in general must:

- (1) receive SLO review and approval;
- (2) include recreation uses which could typically occur outdoors with recreation use clearly being the overall primary function;
- (3) not substantially diminish the outdoor recreation values of a site;
- (4) be compatible and significantly supportive of the outdoor recreation resources present and/or planned;
- (5) benefit the total park's outdoor recreation use;
- (6) have been subject to specific public review - evidence of public comments and local support is required;
- (7) be in compliance with applicable Federal requirements for approval and operation (NEPA, Section 106, Corps of Engineers, Section 504, and grant contract stipulations);
- (8) be under the control and tenure of the public agency which sponsors and administers the original park areas. However, operation of such facilities may be carried out by a contractor or concessionaire provided that sufficient controls are maintained by the sponsoring agency through the management contract or concession agreement to ensure the maintenance of public recreation values and access by the general public.

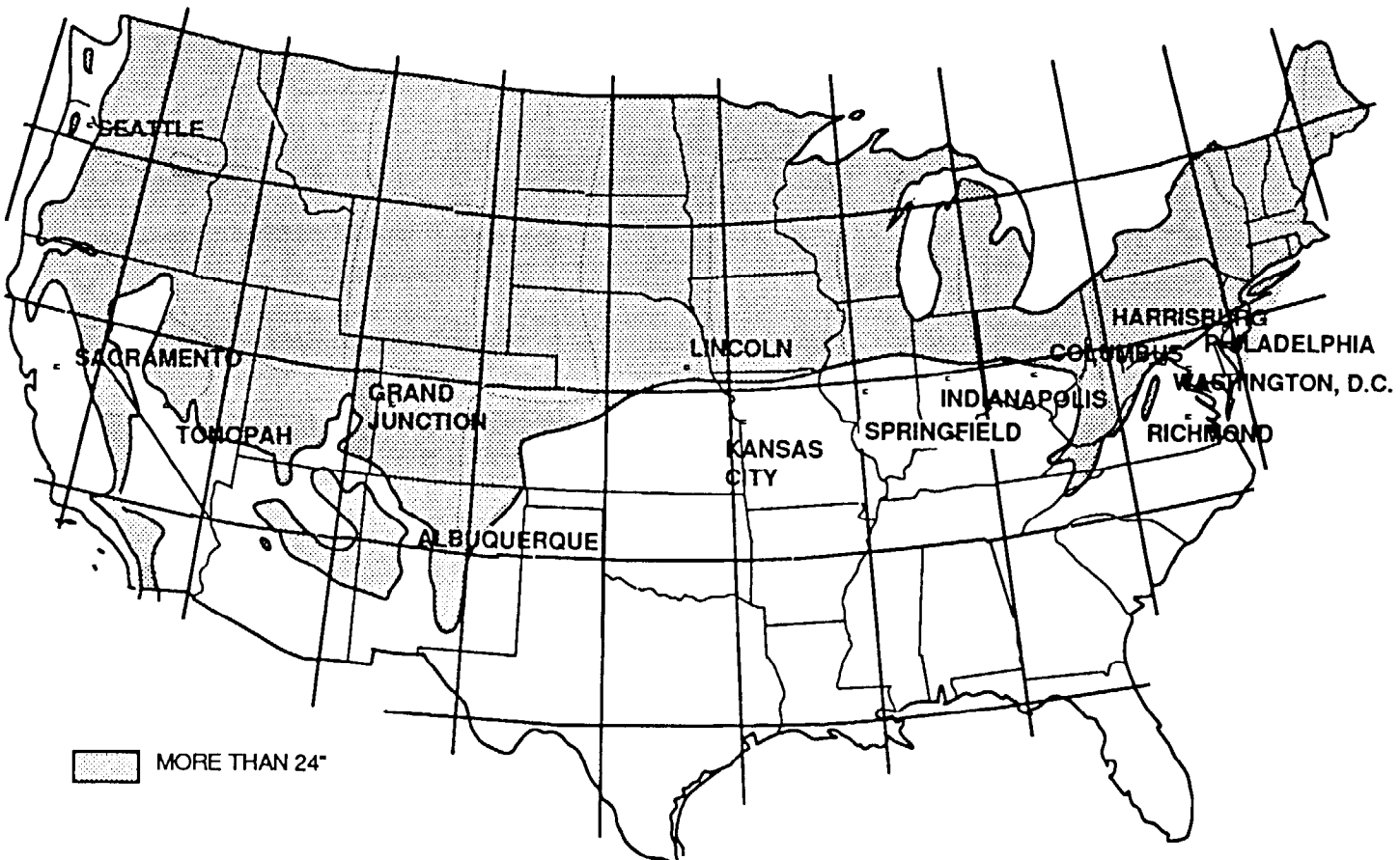
D. Cold Climatic Criteria. Sheltered ice skating rinks may be developed in communities where the mean annual total snowfall is at least 24 inches or the normal daily mean temperature for the coldest winter month is 30 degrees or less. Sheltered swimming pools may be developed in communities where the normal daily mean temperature for the month of June is 72 degrees or less. The official references for making these determinations are the average temperature and the snowfall tables found in Comparative Climatic Data for the United States published by the U.S. Department of Commerce, National Climatic Center, Federal Building, Asheville, North Carolina 28801. If climatic data is not published for the community in which the project is located, the project sponsor should contact the National Climatic Center to obtain the required

data. The National Climatic Center will be able to provide a mean annual total snowfall figure, and figures for the normal daily mean temperature, based on data collected at the closest official weather recording station. A copy of the cold climatic data used to make the determination of eligibility shall be included with all project applications. A project sponsor eligible under the climatic criteria, based on data available as of September 26, 1976, would not become ineligible in a subsequent year solely on the basis of a change in the data. The climatic maps contained in the attachments to this chapter approximate the eligible areas and are not intended to be used as a substitute for climatic data.

- E. Increased Use. The project application will contain a statement indicating the increased use that will result because of sheltering.



MEAN ANNUAL TOTAL SNOWFALL (INCHES)



NORMAL DAILY AVERAGE TEMPERATURE (°F), JUNE

